



DEPARTMENT OF THE NAVY

OFFICE OF THE SECRETARY
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SECNAVINST 5815.3J
NCPB
June 12 2003

SECNAV INSTRUCTION 5815.3J

From: Secretary of the Navy
To: All Ships and Stations

Subj: DEPARTMENT OF THE NAVY CLEMENCY AND PAROLE SYSTEMS

Ref: (a) 10 U.S.C. secs. 801-946 (UCMJ)
(b) 10 U.S.C. sec. 952 (Parole)
(c) 10 U.S.C. sec. 953 (Clemency)
(d) 10 U.S.C. sec. 954 (Retention)
(e) Manual for Courts-Martial (MCM)
(f) *DODINST 1325.7 of 17 Jul 01* (Military Correctional Facilities)
(g) *SECNAVINST 5420.135D of 27 Mar 92* (Naval Council of Personnel Boards)
(h) *JAGINST 5800.7C of 3 Oct 90* (JAGMAN)
(i) *SECNAVINST 1640.9B of 2 Dec 96* (CORRMAN)
(j) *SECNAVINST 5300.28C of 24 Mar 99* (Substance Abuse)
(k) 18 U.S.C. sec. 4201ff (Federal Parole)
(l) 28 C.F.R. secs. 2.1-2.67 (U.S. Parole Commission Rules)
(m) SEC DOT ltr dated 19 Jul 76 (NOTAL)
(n) SECNAV ltr dated 21 Aug 76 (NOTAL)
(o) *SECNAVINST 5800.11A of 16 Jun 95* (Victim and Witness Assistance Program)
(p) Victims' Rights and Restitution Act of 1990 (Title 42, secs. 10601, 10601 note, 10606, 10606 note, and 10607)
(q) *SECNAVINST 5214.2B of 6 Dec 88* (Reports Management Program)
(r) *SECNAVINST 5211.5D of 17 Jul 92* (Privacy Act)
(s) *SECNAVINST 5720.42F of 6 Jan 99* (Freedom of Information Act (FOIA))
(t) *SECNAVINST 5212.5D of 22 Apr 98* (Records Retention)
(u) *SECNAVINST 1752.3A of 11 Sep 95* (Family Advocacy Program)
(v) *OPNAVINST 1752.1A of 30 May 00* (Sexual Assault Victim Intervention (SAVI) Program)

1. Purpose. To publish regulations consistent with references (a) through (v) for implementation of systems of clemency, parole, retention and enlistment of selected court-martialed offenders who were subject to the authority of the Secretary of the Navy at the time of their offenses. This instruction is a substantial revision and should be reviewed in its entirety.

2. Cancellation. SECNAVINST 5815.3H

3. Background. References (a) through (d) provide the statutory authority for the Secretary of the Navy to establish systems for the remission and suspension of unexecuted and executed portions of a court-martial sentence, the restoration to duty, retention and enlistment of selected offenders, and a system of parole for offenders confined in military correctional facilities (naval brigs) who were under the authority of the Secretary of the Navy (SECNAV) at the time of the commission of their offenses. References (a) and (e) provide the maximum authorized punishments for offenses committed under the Uniform Code of Military Justice (UCMJ). Reference (f) provides that the purpose of clemency and parole review is to ensure uniformity and equality in the administration of justice and to guarantee that the best interests of society, military and civilian, and the individual are served. Neither statute nor long-standing practice effectively relied upon by the Congress requires that all clemency and parole decisions be made by SECNAV. Reference (g) vests authority in the Naval Clemency and Parole Board (NC&PB), an administrative activity within the Department of the Navy assigned to the Assistant SECNAV for Manpower and Reserve Affairs (ASN(M&RA)), to review cases eligible for clemency and parole and to take final departmental level action or make recommendations in such matters in accordance with the provisions of this instruction. References (h), (k) and (l) provide guidelines for clemency and parole review by NC&PB, as applicable after taking into consideration the unique character of military service as set forth in the UCMJ and other published policy, rules and procedures of the Departments of Defense and Navy. This regulation also applies to members of the U.S. Coast Guard per references (m) and (n). Reference (o) is the primary directive on implementing reference (p).

4. Authority

a. The naval clemency and parole systems shall consist of review and decision-making procedures that include naval and civilian personnel, including various officers in the chain of administrative and judicial review; the NC&PB; the Director, Naval Council of Personnel Boards (NCPB); and the ASN(M&RA).

b. The NC&PB shall review the cases of selected offenders to determine whether to grant or deny clemency.

c. The NC&PB shall review cases of offenders confined in military or, *when appropriate, Federal* confinement facilities, who are eligible for parole, to determine whether to grant or deny parole requests.

d. Clemency and parole actions taken under the policy, rules and procedures set forth herein are final.

e. Where this instruction conflicts with reference (g), this instruction controls.

5. Action. The NC&PB and the other elements within the clemency and parole systems shall carry out their responsibilities in accordance with this instruction.

6. Report and Forms

a. The report required by paragraph 302j is exempt from reports controlled by reference (q).

b. Forms required for clemency and parole review are listed in Appendix A.

7. Records. Contents of files created by the NC&PB shall be protected in accordance with reference (r). Written requests for disclosure of records within the possession or control of the NC&PB shall be processed in accordance with the Privacy Act (PA) (5 U.S.C. sec. 552a) and the Freedom of Information Act (FOIA) (5 U.S.C. sec. 552) as implemented within the Department of the Navy by references (r) and (s). First party (*i.e.*, offenders') requests for disclosure of information will be processed under both the PA and the FOIA regardless of how the request is styled by the requester (offender). (*See* paragraph 320.) Information released to any law enforcement agent under the "routine use" provision of reference (r) will indicate that such information is for law enforcement purposes only and is not to be released outside such agency. The NC&PB records are retained in accordance with the provisions of reference (t).

8. Effective Date. The provisions of this instruction are effective upon the date of signature.

Hansford T. Johnson
Secretary of the Navy
Acting

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